

EXCERPTS FOR UTILITY CONTRACTORS

(For complete text see www.sos.state.ga.us)

EXCERPTS FROM THE CONSTRUCTION INDUSTRY LICENSING BOARD ACT O.C.G.A. 43-14

43-14-2. Definitions - Excerpts

As used in this chapter, the term:

- (13) 'Utility contracting' means undertaking to construct, erect, alter, or repair or have constructed, erected, altered, or repaired any utility system.
- (14) 'Utility contractor' means a sole proprietorship, partnership, or corporation which is engaged in utility contracting under express or implied contract or which bids for, offers to perform, purports to have the capacity to perform, or does perform utility contracting under express or implied contract.
- (15) 'Utility foreman' means any individual who is employed by a licensed contractor to supervise the construction, erection, alteration, or repair of utility systems.
- (16) 'Utility manager' means any individual who is employed by a utility contractor to have oversight and charge of the construction, erection, alteration, or repair of utility systems.
- (17) 'Utility system' means:
 - (A) Any system at least five feet underground, when installed or accessed by trenching, open cut, cut and cover, or other similar construction methods which install or access the system from the ground surface, including, but not limited to, gas distribution systems, electrical distribution systems, communication systems, water supply systems, and sanitary sewerage and drainage systems; and
 - (B) Reservoirs and filtration plants, water and waste-water treatment plants, leachate collection and treatment systems associated with landfills, and pump stations, when the system distributes or collects a service, product, or commodity for which a fee or price is paid for said service, product, or commodity or for the disposal of said service, product, or commodity.

43-14-8.2. Utility Contractor License; Utility Manager – Excerpts

- (a) For purposes of this Code section only, 'division' means the 'Division of Utility Contractors.'
- (b)(1) After June 30, 1994, no sole proprietorship, partnership, or corporation shall have the right to engage in the business of utility contracting unless such business holds a utility contractor license and there is regularly connected with such business a person or persons who holds a valid utility manager certificate issued under this chapter. Such utility manager must be actually engaged in the performance of such business on a full-time basis and oversee the utility contracting work of all employees of the business. In cases where a sole proprietorship, partnership, or corporation has more than one permanent office, then each permanent office shall be registered with the division and at least one person who holds a valid utility manager certificate issued under this chapter shall be stationed in each office on a full-time basis and shall oversee the utility contracting work of all employees of that office.
- (2) The requirements of this Code section shall not prevent any person holding a valid license issued by the State Construction Industry Licensing Board, or any division thereof, pursuant to this chapter, from performing any work defined in the Code section or sections under which the license held by said person was issued.
- (c) Any corporation, partnership, or sole proprietorship desiring to qualify and be issued a utility contractor license under the provisions of this subsection shall:
 - 1) Submit a completed application to the division on the form provided indicating:
 - (A) The names and addresses of proprietor, partners, or officers of such applicant;
 - (B) The place and date such partnership was formed or such corporation was incorporated; and
 - (C) The name of the qualifying utility manager holding a current certificate who is employed for each permanent office location of the business from which utility contracting is performed;
 - (2) Submit its safety policy which must meet the minimum standards established by the board;
 - (3) Pay or have paid the required fees; and
 - (4) Not be otherwise in violation of this chapter.
- (d) The decision of the division as to the qualifications of applicants shall, in the absence of fraud, be conclusive.
- (e) It shall be the duty of the utility manager certificate holders and the licensed utility contractor to notify the division, in accordance with board rules, of severance of connection between such utility contractor and the utility manager certificate holder or holders upon whom the qualification of the utility contractor rested.
- (f) In the event that a licensed utility contractor temporarily does not have employed a utility manager certificate holder to oversee its utility contracting work, upon notice by such utility contractor to the division within five days following the last day of employment of the utility manager certificate holder, the division shall grant the utility contractor a 90 day grace period in which to employ a utility manager certificate holder to oversee its utility contracting work before any action may be taken by the division to revoke the utility contractor's license. The division may, at its discretion, upon application by the utility contractor showing good cause grant one

additional 90 day grace period. Grace periods totaling not more than 180 days may be granted during any two-year period. Failure to have employed a utility manager certificate holder to oversee the utility contracting work of the utility contractor shall be grounds for the revocation or suspension of the utility contractor license after a notice of hearing.

- (g) All applicants for renewal of utility contractor licenses provided for by this Code section shall be required to submit with the required fee a completed application on a form provided by the division.
- (h) It shall be unlawful for any person to contract with any other person for the performance of utility contracting work who is known by such person not to have a current, valid license as a utility contractor pursuant to this chapter.

43-14-8.3. Utility Manager Certificate - Excerpts

- (a) After June 30, 1994, no person may be employed as a utility manager unless that person holds a current utility manager certificate issued by the Division of Utility Contractors.
- (b) The division shall certify all applicants for certification under this chapter who satisfy the requirements of this chapter and the rules and regulations promulgated under this chapter. Persons wishing to qualify for utility manager certification shall submit a completed application form documenting required experience and other qualifications as prescribed by the board with the required fees and shall pass an examination. In order to obtain a utility manager certificate, an applicant must submit proof of completion of a course of safety training in utility contracting approved by the division. In order to continue to hold such certificate, the certificate holder must present proof to the division of completion of a safety training course approved by the division at least every two years from the date of the completion of the initial safety training course.
- (c) An applicant may request an oral administration of the examination

43-14-8.4. Utility Foreman Certificate - Excerpts

- (a) After June 30, 1994, no person may be employed as a utility foreman unless that person holds a current utility foreman certificate issued by the Division of Utility Contractors.
- (b) The division shall certify all applicants for certification under this chapter who satisfy the requirements of this chapter and the rules and regulations promulgated under this chapter. One requirement for such certification shall be the successful completion of a course of safety training in utility contracting approved by the division. In lieu of safety training any person desiring to be issued a utility foreman certificate may submit a completed application on or before December 31, 1994, which documents to the satisfaction of the division at least two years of experience as a utility foreman during the period between January 1, 1984, and June 30, 1994. Any person who does not submit a completed application for certification on or before December 31, 1994, must complete the required safety training in order to be certified.
- (c) After June 30, 1994, no utility system shall be constructed, erected, altered, or repaired unless a certified utility manager or certified utility foreman who holds a current certification is present at the job site of such construction, erection, alteration, or repair of the utility system.

43-14-13. Applicability of Chapter - Excerpts

- (a) This chapter shall apply to all installations, alterations, and repairs of plumbing, air conditioning and heating, or electrical or low-voltage wiring or utility systems within or on public or private building, structures, or premises except as otherwise provided in this Code section.
- (b) Any person who holds a license issued under this chapter may engage in the business of plumbing, electrical contracting, conditioned air contracting, low-voltage contracting, or utility contracting but only as prescribed by the license, throughout the state; and except as provided in Code Section 43-14-12, no municipality or county may require such person to comply with any additional licensing requirements imposed by such municipality or county.
- (c) This Chapter shall not apply to the installation, alteration, or repair of plumbing, air-conditioning and heating, utility systems, or electrical services, except low-voltage wiring services, up to and including the meters where such work is performed by and is an integral part of the system owned or operated by a public service corporation, electrical, water, or gas department of any municipality in this state, a railroad company, a pipeline company, or a mining company in the exercise of its normal function as such.
- (d) This chapter shall not prohibit an individual from installing, altering, or repairing plumbing fixtures, air conditioning and heating, air conditioning and heating fixtures, utility systems, or electrical or low-voltage wiring services in a residential dwelling owned or occupied by such individual; provided, however, that all such work must be done in conformity with all other provisions of this chapter, the rules and regulations of the board, and any applicable county or municipal resolutions, ordinances, codes, or inspection requirements.
- (e) This chapter shall not prohibit an individual employed on the maintenance staff of a facility owned by the state or by a county, municipality, or other political subdivision from installing, altering, or repairing plumbing, plumbing fixtures, utility systems, or electrical or low-voltage wiring services when such work is an integral part of the maintenance requirements of the facility; provided, however, that all such work must be done in conformity with all other provisions of this chapter and the orders, rules, and regulations of the board.
- (f) This chapter shall not prohibit any person from installing, altering, or repairing plumbing, plumbing fixtures, air-conditioning and heating fixtures, utility systems, or electrical or low voltage wiring services in a farm or ranch service building or as an integral part of any irrigation system on a farm or ranch when such system is not located within 30 feet of any dwelling or any building devoted to animal husbandry. Nothing in this subsection shall be construed to limit the application of any resolution, ordinance, code, or inspection

requirements of a county or municipality relating to such connections.

- (g) This chapter shall not apply to low voltage wiring performed by public utilities, except that such portion of the business of those public utilities which involves the installation, alteration, repair, or service of telecommunication systems for profit shall be covered under this chapter.
- (h) This chapter shall not apply to the installation, construction, or maintenance of power systems for the generation or distribution of electrical current constructed under the National Electrical Safety Code, which regulates the safety requirements of utilities; but the interior wiring regulated by the National Electrical Safety Code would not be exempt and must be done by an electrical contractor except as otherwise provided by law.
- (j) This chapter shall not apply to regular full-time employees of an institution, manufacturer, or business who perform plumbing, electrical, low voltage wiring, utility contracting, or conditioned air work when working on the premises of that employer.
- (l) Any person qualified by the Department of Transportation to perform work for the department shall not be required to be licensed under Code Section 43-14-8.2 or certified under Code Sections 43-14-8.3 and 43-14-8.4 in order to perform work for the department. Any person qualified by the Department of Transportation to perform work for the department shall not be required to be licensed under Code Section 43-14-8.2 or certified under Code Sections 43-14-8.3 and 43-14-8.4 in order to perform work for a county, municipality, authority, or other political subdivision when such work is of the same nature as that for which the person is qualified when performing department work is of the same nature as that for which the person is qualified when performing department work; provided, however, that such work is not performed on a utility system as defined in paragraph (17) of Code Section 43-14-2 for which the person receives compensation.

EXCERPTS FROM PROFESSIONAL LICENSING BOARDS GENERAL PROVISIONS O.C.G.A. 43-1

43-1-19. General Provisions. Grounds for refusing to grant or revoking licenses. Excerpts.

(a) A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(1) Failed to demonstrate the qualifications or standards for a license contained in this Code section, or under the laws, rules, or regulations under which licensure is sought or held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he meets all the requirements for the issuance of a license, and, if the board is not satisfied as to the applicant's qualifications, it may deny a license without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he so desires;

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice the licensed business or profession; or made a false statement or deceptive registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere.

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(5) Had his license to practice a business or profession licensed under this title revoked, suspended, or annulled by any lawful licensing authority other than the board; or had other disciplinary action taken against him by any such lawful licensing authority other than the board; or was denied a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title;

(7) Knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person or any licensee whose license has been suspended or revoked by a state examining board to practice a business or profession licensed under this title or to practice outside the scope of any disciplinary limitation placed upon the licensee by the board;

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the state examining board regulating the business or

profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement;

(9) Been adjudged mentally incompetent by a court of competent jurisdiction within or without this state; any such adjudication shall automatically suspend the license of any such person and shall prevent the re-issuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect;

(10) Displayed an inability to practice a business or profession licensed under this title with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material; or

(11) Failed to comply with an order for child support as defined by Code Section 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of release to the board from the child support agency within the Department of Human Resources indicating that the applicant or licensee has come into compliance with an order for child support so that a license may issue or be granted if all other conditions for licensure are met.

(12) Failed to enter into satisfactory repayment status and is a borrower in default as defined by Code Section 20-3-295; it shall be incumbent upon the applicant or licensee to supply a notice of release to the board from the Georgia Higher Education Assistance Corporation indicating that the applicant or licensee has entered into satisfactory repayment status so that a license may be issued or granted if all other conditions for licensure are met.

(b) The provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," with respect to emergency action by a state examining board and summary suspension of a license are adopted and incorporated by reference into this Code section.

(c) For purposes of this Code section, a state examining board may obtain, through subpoena by the joint secretary, upon reasonable grounds, any and all records relating to the mental or physical condition of a licensee or applicant, and such records shall be admissible in any hearing before the board.

(d) When a state examining board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section or the laws, rules, or regulations relating to the business or profession licensed by the board, the board may take any one or more of the following actions:

- (1) Refuse to grant or renew a license to an applicant;
- (2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;
- (3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;
- (4) Limit or restrict any license as the board deems necessary for the protection of the public;
- (5) Revoke any license;
- (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's or licensee's submission to such care, counseling, or treatment as the board may direct;
- (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation relating to the licensed business or profession; or
- (8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse an examining board for the administrative costs incurred by the board in conducting an investigative or disciplinary proceeding.

(e) In addition to and in conjunction with the actions described in subsection (d) of this Code section, a professional licensing board may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty; or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

EXCERPTS FROM THE RULES OF THE STATE CONSTRUCTION INDUSTRY LICENSING BOARD

121-2-.07 Statewide Utility Contractor License and Foreman Certification. Amended.

- (1) The applicant for statewide utility contractor examination must submit a completed application which:
 - (a) indicates if the applicant is a sole proprietorship, partnership, or corporation and, if a partnership or corporation, lists the names and addresses of the partners or officers and when and where formed or incorporated;
 - (b) includes a statement regarding the safety policy adopted by the applicant. The statement must state the applicant's concern and support of safety, active and continuing efforts to provide a safe working environment, compliance with state and federal safety requirements, maintenance of a safety program, and requirements for regularly scheduled safety meetings for all field personnel; and
 - (c) includes a statement attesting to the employment of at least one current utility manager certificate holder on a regular, full-time basis to supervise the applicant's utility work by each permanent office.
- (2) The utility contractor must notify the division in writing within five (5) days of the severance of connection between such utility contractor and the utility manager certificate holder or holders upon whom the qualification of the utility contractor rests.

121-2-.08 Statewide Utility Manager Certificate.

- (1) Applicants for statewide utility manager certificate must:
 - (a) submit a completed application;
 - (b) meet the prerequisite experience requirement, as defined in this Rule;
 - (c) pay the required fees; and
 - (d) obtain a score of seventy (70) on the utility manager examination.
- (2) Applicants for utility manager certificate must have a minimum of 2 years of experience as a manager or foreman for the construction, erection, alteration, or repair of utility systems at least five feet underground.

121-2-.09 Statewide Utility Foreman Certificate. Amended.

- (1) Applicants for a statewide utility foreman certificate must submit a completed application with the required fee which documents the successful completion of a division approved course of safety training.
- (2) In lieu of safety training, the applicant may submit a completed application with the required fee on or before December 31, 1994, which documents to the satisfaction of the division at least two years of experience as a utility foreman during the period of January 1, 1984, and June 30, 1994.

121-2-.10 Utility Foreman Safety Training Course.

- (1) The Safety Training Course required of persons applying for utility foreman certification must be a course with at least 7 hours of actual instruction. The course must give adequate instruction on methods of design of protective systems, procedures for conducting initial inspections, soil assessment methods, methods for checking for the presence of fissures, methods of assessing the capacity of the system to resist load, methods of assessing the stability of adjoining structures, and methods of conducting daily inspections and inspection based on changing circumstances, as covered by 29CFR1926(P). The course instructor must have field experience, training experience, and educational background and have completed a Safety Training Course, acceptable to the division.
- (2) In order to be approved as a Safety Training Course, the course outline and procedures, participate workbook, and instructor's qualifications must be submitted to the division. If the course and the instructor are acceptable to the division, the course will receive probationary approval for one year. Continuation of the approval beyond the initial one year period will be based on the board review of the course and instructor, any audit by the division of the course, participants attending. As a condition of approval, the division reserves the right to have members or staff attend courses unannounced and without charge. If the division determines that the course is not adequate or the instructor is not qualified, the division may cancel its approval at any time. If the course or instructor are not accepted by OSHA as adequate for competent person training at any time. Persons conducting a course for which approval has been denied or canceled may request to meet with the division to discuss the course.

121-3-.01 Applications for Statewide License. Amended.

- (1) Applications for license or certification and requests for scheduling of examination must be completed in full on a form approved by the division, submitted with the required fee, and received by the deadline date established by the division.
- (2) The application fee, examination fee, and re-examination fee will be approved by the Board in order to recover costs associated with processing application and administering the examination. Fees will be published in a separate schedule and will be made available to all

applicants. The application fee is non-refundable. The examination fee or re-examination fee may be refunded only if the applicant submits a request for refund prior to being scheduled for the examination, however a partial refund of any unexpended portion of the examination fee for scheduled applicants may be approved, at the Board's discretion.

(3) Reference and other examination material which are provided to applicants by the Divisions of the Board and replacement of such material requested by applicants may be provided subject to a fee approved by the Board. Such fees will be published in a separate schedule and will be made available to all applicants.

(4) All applicants for license or certification must report to the Board, prior to becoming licensed, any findings or pleas of guilty or pleas under nolo contendere or under the "First Offender Act" for the commission of any felony or misdemeanor, other than minor traffic violations, except that any misdemeanor committed more than five years prior to application need only be reported upon request.

(5) The divisions of the Board may take disciplinary action on the license or certification of any person guilty of a felony or any crime involving moral turpitude or crime involving a violation of the Georgia Controlled Substances Act.

(6) The Board will provide reasonable accommodation to a qualified applicant with a disability in accordance with the Americans With Disabilities Act. The request for an accommodation by an individual with a disability must be made in writing and received in the Board office by the application deadline along with appropriate documentation, as indicated in the Request for Disability Accommodation Guidelines.

121-3-.02 Confidentiality of Applicant and Examination Information.

(1) Applications for examination and the names of applicants shall be confidential and shall not be disclosed without written authorization from the applicant and approval by the appropriate division. Personal references submitted by third parties as part of an application shall not be disclosed to the applicant without written authorization from the person who submitted the reference and approval by the appropriate division.

(2) No applicant may remove from the examination room any examination material or notes on the examination. All examination material and notes made by the applicant during the examination must be given to the examination proctor before leaving the examination room. Any applicant who removes examination materials or notes from the examination room or who shares information on examination questions or answers during or after the examination, or who violates other procedures for the examination as listed in the examination instructions will be subject to disciplinary proceedings as provided for the Board Rule 121-5, at the discretion of the appropriate division.

(3) The appropriate division may, at its sole discretion, release the grade to a failing applicant. Individual papers may not be reviewed with the applicant nor shall the applicant be permitted to inspect either questions or answers following the examination.